

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

\* \* \* \* \* C.A. NO. 00-105L  
EFRAT UNGAR, et al \*  
VS. \* SEPTEMBER 21, 2010  
\* 2:03 P.M.  
\*  
THE PALESTINIAN \*  
LIBERATION ORGANIZATION, \*  
et al \* PROVIDENCE, RI  
\* \* \* \* \*

BEFORE THE HONORABLE RONALD R. LAGUEUX  
SENIOR JUDGE  
(Motion to Intervene)

**APPEARANCES:**

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1 21 SEPTEMBER 2010 -- 2:03 P.M.

2 THE COURT: Good afternoon, everyone.

3 The matter before the Court is the Estate of  
4 Unger v. The Palestinian Authority and others. It's  
5 Civil Action 00-105L. The specific matter before the  
6 Court is a motion to intervene filed by the Palestinian  
7 Pension Fund for the State Administrative Employees in  
8 the Gaza Strip.

9 Will the attorneys interested in this matter  
10 please identify themselves for the record.

11 MR. STRACHMAN: David Strachman for the Unger  
12 Plaintiffs, Your Honor.

13 MR. WISTOW: Max Wistow for the Plaintiffs.

14 MR. CAVANAGH: Joseph Cavanagh for the moving  
15 party.

16 MR. KERR: Charles Kerr for the moving party.

17 MR. SHERMAN: Deming Sherman for the PA and PLO.

18 THE COURT: All right. I'll hear first from the  
19 moving party. Who will argue?

20 MR. CAVANAGH: Good afternoon, Your Honor. Nice  
21 to see you.

22 Mr. Kerr, who has much more familiarity than I  
23 do with this, may also add some argument, but I will  
24 try to handle your questions and present this in a  
25 fashion that is clear.

1 First of all, Your Honor, this motion is not one  
2 where we seek in any way to get involved with the  
3 merits or these parties. We have no relationship to  
4 the Defendants, we have obviously no relationship to  
5 the Plaintiffs, and our motion is simply a motion to  
6 intervene for the limited purpose of bringing to your  
7 attention the problem with the injunction and what it  
8 has done to our interests and ask you to either vacate  
9 or modify that injunction or to ask that the other --  
10 we would ask that the other side have a bond with  
11 respect to the injunction, and I'll explain the reasons  
12 why.

13 I wasn't present, obviously, at the hearing  
14 where you granted the injunction in May of '05, but it  
15 seems apparent that what was needed at that time, the  
16 Plaintiffs represented to you, that they needed an  
17 opportunity to maintain the status quo so that they  
18 could go to the jurisdictions where they believed  
19 assets existed where they could enforce their judgment.  
20 And so they asked you for an injunction for that  
21 purpose, and you granted that.

22 THE COURT: I granted it against the PA and the  
23 PLO over whom I had personal jurisdiction. That's why  
24 I issued the injunction.

25 MR. CAVANAGH: Right.

1           THE COURT: And it had to be enforced somewhere  
2 else because there were no funds here in Rhode Island  
3 or other assets.

4           MR. CAVANAGH: Right. And what they represented  
5 to you was that they didn't -- the Plaintiffs said that  
6 there were no assets in Rhode Island but they believed  
7 that there were assets in other jurisdictions, and they  
8 wanted to go to those states and use the process of  
9 those states to restrain assets in those states, and  
10 they needed an injunction to give them the chance to do  
11 that.

12          THE COURT: I was enjoining those two entities  
13 from alienating their funds.

14          MR. CAVANAGH: Right. And the basis for their  
15 argument was to allow us to -- if you recall, there was  
16 a mandate issue at that time as well. The mandate  
17 hadn't issued from the First Circuit.

18          And they brought two matters to your attention,  
19 that what do we do about the mandate because we want to  
20 move on this as a judgment. And, secondly, we think  
21 that the Defendants are moving assets right now, and  
22 we'd like an injunction so that we can go to those  
23 states and try to have that advocated.

24          Now, that was five years ago. And as a result  
25 of the injunction and what they did in New York, our

1 funds, which are completely separate from the PA, have  
2 been frozen for five years.

3 And the collection proceedings that the  
4 Plaintiffs said they wanted to go about in New York  
5 they haven't pursued, to the point where they brought  
6 three separate actions in New York.

7 The first was they attempted to get a  
8 restraining order under New York process. We entered  
9 into that case and took the position that the assets  
10 they were seeking to restrain were owned by us and not  
11 by the Defendants.

12 THE COURT: And that's a matter that's still  
13 pending before the New York Court.

14 MR. CAVANAGH: That particular matter, the  
15 Court -- before the hearing took place, the Plaintiffs  
16 withdrew their claim under that particular procedure.

17 And the issue that was teed up at that time was,  
18 Who owned the assets, and were they entitled to get a  
19 restraining order under these circumstances?

20 When that issue was ready to be heard, when we  
21 raised that issue in 2006, they withdrew and instead  
22 filed a second proceeding called a turnover proceeding  
23 and at the same time filed motions for declaratory  
24 judgment.

25 And the relief they asked for in the declaratory

1 judgment was a declaration by the New York Court that  
2 these assets were owned or controlled by the PA. The  
3 second declaration was that they were not owned or  
4 controlled by my client. That was the declaration.

5 The turnover action was dismissed without  
6 prejudice by the New York Court, the New York Judge  
7 making the comment that there was no evidence before  
8 her that would indicate that the PA owned these assets,  
9 but the declaratory -- because no discovery had been  
10 done in the turnover proceeding, she denied it without  
11 prejudice, and then the declaratory judgment action  
12 proceeded.

13 In the declaratory judgment action, which is  
14 still pending, the Plaintiffs have taken the position  
15 recently that, that declaration that the PA did not own  
16 or control is not an issue that needs to be decided by  
17 the Court, that the only issue that they need decided  
18 is that my client doesn't own the assets, which really  
19 doesn't go to the issue of -- the key issue in the  
20 case, do these Defendants control or own the assets?

21 So, after five years, when they were before you  
22 five years ago, you gave them an opportunity to go to  
23 the various jurisdictions and try to collect those  
24 judgments. They haven't done that yet, but for five  
25 years, my client's assets have been held up because

1       that issue hasn't been addressed.

2               THE COURT: Well, that's up to the New York  
3 Court to deal with that matter, not this Court.

4               MR. CAVANAGH: Well, here's what I'm suggesting,  
5 Your Honor, that we have an interest in this matter,  
6 and it's your -- this injunction that's holding it up  
7 in New York because there's no restraint in place in  
8 New York.

9               They have not been able to get one in New York.  
10 They've withdrawn once, dismissed without prejudice,  
11 and now, when it appears as though that issue might be  
12 decided in the declaratory judgment action, they are  
13 moving away from that issue.

14              And so our position is this: With no due --  
15 with no lack of respect for the Court, your injunction,  
16 which is open-ended --

17              THE COURT: It's a permanent injunction. It was  
18 made permanent.

19              MR. CAVANAGH: Right, until further order of the  
20 Court.

21              THE COURT: That's right.

22              MR. CAVANAGH: Right. And in the transcript, if  
23 you remember, you had said that you could not -- you  
24 were not clairvoyant, you couldn't see what was going  
25 to happen down the line and the parties and people



1       could come back and bring appropriate motions or  
2       petitions with respect to that matter, if appropriate  
3       under the circumstances.

4               And that was because actually at that hearing, a  
5       couple of the banks and in fact one of the investment  
6       managers for this very Fund, represented by counsel and  
7       had already been notified by the Plaintiffs and had  
8       been subpoenaed for records, they appeared and said  
9       they were unclear on what was happening. And you had  
10      made the observation that, if these things don't work  
11      out, then someone could come back.

12             So what we're doing with the intervention is,  
13      number one, we think we have a right to intervene and  
14      to bring this to your attention because I think what's  
15      important is, you say it's up to the New York Court,  
16      but your injunction was to give them the chance to get  
17      relief from the New York Courts, not to give them an  
18      opportunity not to do that and to just hold the  
19      injunction over our heads and freeze our assets, and  
20      that's what's happened in this circumstance.

21             So what we were asking is --

22             THE COURT: You have your remedies in the  
23      New York Court.

24             MR. CAVANAGH: What I'm suggesting, Your Honor,  
25      is that an appropriate remedy would be to limit the

1 amount of time that they have to get that relief or to  
2 put a bond in place in the event that we're harmed by  
3 the result of an injunction that should not have been  
4 granted under the circumstances.

5 And let's just assume that I'm right that we  
6 have the rights to these, the Defendants don't have the  
7 rights to these. For five years, our assets have been  
8 prevented from being managed and handled and reinvested  
9 in a way that would be deemed appropriate by experts  
10 because they've been frozen.

11 And what we're saying is, when you -- for  
12 example, if -- you entered an order that originally  
13 they asked for 60 days, and that made a lot of sense  
14 because that would give them two months to go to  
15 New York or some place else and invoke the process of  
16 the New York Court to try to restrain the assets  
17 because that's where the assets are and let them seek  
18 relief there.

19 What they're doing is they're getting relief  
20 from a Federal injunction here that's preventing us  
21 from -- it's not because of New York Courts; it's  
22 because of the Federal injunction in Rhode Island  
23 that's preventing us. And what we --

24 THE COURT: Not at all because it only runs  
25 against the PA and the PLO, and you can bring the issue

1 before the New York Court that you are not under the  
2 aegis of the PA and you're a separate entity, and that  
3 issue should be decided in New York, not here.

4 MR. CAVANAGH: We've tried to bring it before  
5 them, and the --

6 THE COURT: Well, I can't speak for the New York  
7 Court, but I'm not going to take an end around here.

8 MR. CAVANAGH: Well, I --

9 THE COURT: And you asked to stay those  
10 proceedings in New York pending the outcome of what the  
11 only issue is that remains is whether or not I should  
12 grant a new trial.

13 MR. CAVANAGH: Right, and that --

14 THE COURT: That's the only issue that remains  
15 in this case, and you're not involved in that issue.

16 MR. CAVANAGH: Right, but we are being harmed by  
17 the injunction every day, as we have been for five  
18 years. And what we're saying is, we think we could --  
19 we would like to intervene and at least make the  
20 argument to you that your injunction should be at least  
21 modified, at least modified so that we get protection  
22 because, at the end of the day, if the injunction, with  
23 no one there to protest or bring it up five years ago,  
24 the injunction, if someone's going to be under the  
25 restrictions of an injunction, then someone who obtains

1       that injunction under the rules, under 65, should put  
2       up a bond, no question about it.

3               And if we're right, just hypothetically, if I'm  
4       right, my client owns the assets and the PA doesn't and  
5       this injunction has kept us, not the New York  
6       injunction because they've never obtained relief in  
7       New York, as they told you -- that's why they told you  
8       they needed the injunction, so they could go to  
9       New York and do that five years ago.

10              And we've been harmed for five years. And what  
11       we're saying is, we're coming back and saying, well,  
12       let's put a bond in place to protect us going forward  
13       if this is going to persist, and that we think is a  
14       right under the rights of intervention we have a right  
15       to bring to your attention under these circumstances.

16              So that, in essence, is what we're arguing.  
17       They've raised some procedural issues that we didn't  
18       plead this correctly. It's clear as a bell what we're  
19       trying to do in our papers.

20              And as far as timeliness goes, we know what you  
21       did with the Monetary Authority when they brought a  
22       separate action up here against these Plaintiffs. You  
23       said, That should be decided in New York.

24              You essentially said that with your injunction  
25       five years ago, but you didn't ever expect and neither

1       should we be burdened by the fact that it's to their  
2       advantage to not have that issue decided in New York,  
3       and the latest statement of their claims in New York is  
4       they are making movements away from that declaration  
5       that you said is the essence of the issue.

6               So what -- all we're asking for is relief from  
7       the harshness of that injunction so that it puts some  
8       duration on it and gives us a bond. That's what  
9       we're -- we're not asking that it be completely  
10      vacated. We would want some harshness and a bond under  
11      the circumstances because, otherwise, it's an  
12      injunction. It really is a hardship on a third party  
13      that has nothing to do with this, and it's five years  
14      they have not clarified that issue in New York, and  
15      it --

16             THE COURT: Well, why haven't you clarified it?  
17      Why haven't you taken some action to make --

18             MR. CAVANAGH: We have.

19             THE COURT: -- make a claim that you're not --  
20      you're a separate entity and you're not under the aegis  
21      of the PA?

22             MR. CAVANAGH: We took that position in --

23             THE COURT: Well, then that's up to the Supreme  
24      Court in New York to decide that issue.

25             MR. CAVANAGH: But what we're saying is that's

1 true, let the New York case -- Court decide it, but  
2 your injunction shouldn't stay in place during all --  
3 it's up to New York. They got the benefit of your  
4 injunction. They can go to New York and get the  
5 benefit of New York law with respect to collection of  
6 judgments, and that's what they --

7 THE COURT: My injunction is very, very clear.  
8 It only applies to the PA and the PLO. I've already  
9 ruled that.

10 MR. CAVANAGH: Right, I understand that you  
11 have.

12 THE COURT: So what am I to do, take on another  
13 action here? I'd have to have another trial of some  
14 sort.

15 MR. CAVANAGH: No, I don't think so. I think --

16 THE COURT: Won't I have to decide whether or  
17 not you're a separate entity?

18 MR. CAVANAGH: No. All you'd have to decide is  
19 whether your injunction is appropriate under these  
20 circumstances.

21 THE COURT: It is appropriate against the PA and  
22 the PLO.

23 MR. CAVANAGH: But not against us, and that's --  
24 and we would say, therefore, you put a time limit on  
25 that so that they can get that clarified and put a bond

1 requirement. That's not a trial. There's no  
2 discovery.

3 THE COURT: You want me to decide, first of all,  
4 that you are a separate entity and not under the aegis  
5 of the PA. I'd have to decide that first.

6 MR. CAVANAGH: I don't think so. I think --

7 THE COURT: I'd have to.

8 MR. CAVANAGH: -- we'd make -- all we do is we  
9 make a claim to the Fund, and what you'd say is a bond  
10 in place, in the event that we're right, in the event  
11 that we're right and it's decided in New York that  
12 ultimately the PA does not own and control it, then  
13 there's a bond in place that protects us for the loss  
14 and the harm that we have going forward while your  
15 injunction prevents the custodians in New York from  
16 doing anything because they're all afraid that they're  
17 violating a Federal injunction.

18 THE COURT: That's because they're afraid.  
19 They're afraid.

20 MR. CAVANAGH: I know.

21 THE COURT: They're not litigating it. They're  
22 just sitting there, and they accepted a lawyer's word  
23 that it covered them, and that'll be decided by a  
24 New York Court, not this Court. I'm not going to start  
25 another trial in this case.

1 MR. CAVANAGH: Look, I know when these papers  
2 came in, and I know the situation, that you would say  
3 I'm not going to get involved in another --  
4 respectfully, what I'm asking is, do we have a right to  
5 intervene? We think we do.

6 And what issue are we going to place before you?  
7 The appropriateness of that injunction staying in place  
8 under the Federal law, and that would be, should a bond  
9 be put in place in case we're right? You don't have  
10 have to have a hearing on that. The bond would be --  
11 it wouldn't -- it doesn't mean anything if we're wrong.  
12 But if we're right, we get protected, and that should  
13 have taken place five years ago, with all due respect,  
14 for anybody --

15 THE COURT: You're on the horns of a dilemma.  
16 You haven't even shown me that you have standing to  
17 bring this, that you're a separate entity and you have  
18 standing to bring this motion.

19 MR. CAVANAGH: I think we -- under the Rule,  
20 we've shown --

21 THE COURT: You're on the horns of a dilemma.

22 MR. CAVANAGH: We have a claim. We have a claim  
23 that we think is an interest recognized under the  
24 invention law -- rule, and our claim is that we're the  
25 owner, sole owner, of the Pension Fund assets that are



1 being adversely affected by an injunction of this  
2 Court, and we're asking to intervene for the limited  
3 purpose of asking you for relief from that injunction  
4 in an appropriate way, and that's a legal issue.  
5 That's not a trial. It's very much like if --

6 THE COURT: It's loaded with factual issues.

7 MR. CAVANAGH: It would be based on the  
8 assumption that we're right. And if there's a bond in  
9 place to protect us, if we're wrong, it doesn't mean  
10 anything. If we're right, we're protected, that's what  
11 it means, under those circumstances.

12 It doesn't mean anything else. And it's  
13 appropriate, it's required under the rule, and that's  
14 our position. As a party -- as a would-be party having  
15 an interest in the injunction because of the effect  
16 it's having on us, we think that gives us the right to  
17 intervene. And we're not going to get into a big  
18 debate about who the owner is, et cetera. We're  
19 saying, if we're the owner, we're going to be --

20 THE COURT: I'm not deciding hypothetical cases,  
21 and I'm not going to bring this case into the major  
22 case because it doesn't have anything to do with the  
23 only issue that's left in this case.

24 MR. CAVANAGH: I think the New York Court should  
25 decide that. They should decide that issue. But your

1 injunction --

2 THE COURT: They should.

3 MR. CAVANAGH: -- is harming us in the meantime,  
4 and we want the opportunity and we think we have the  
5 right to intervene to bring to your attention the need  
6 for that injunction to be modified and for a bond to be  
7 put in place.

8 THE COURT: You have your remedies in New York.

9 MR. CAVANAGH: Okay. Thank you, Your Honor.

10 THE COURT: Mr. Strachman?

11 MR. STRACHMAN: Thank you, Your Honor.

12 Your Honor, my brother indicates that there is  
13 significant harm that is occurring and that the funds  
14 are not being managed, and I would direct the Court's  
15 attention to Exhibit I to our filing, which is Docket  
16 No. 402, which is a stipulation and an order signed by  
17 Mr. Kerr and myself and brought to Your Honor and  
18 signed by Your Honor on September 11, 2007,  
19 specifically allowing the management of these funds  
20 because, when an issue was raised in New York years and  
21 years ago and there was a question as to how these  
22 funds should be managed while the litigation was  
23 pending, we cooperatively said effectively, do whatever  
24 you want with the money, invest it any way you want,  
25 just keep investing it, keep managing it, it has

1 nothing to do with us.

2 So for my brother to come into Court today and  
3 say that nothing's happened in the last five years and  
4 that this restraining order from May of 2005 is the  
5 cause of any of these problems is just inaccurate, and  
6 I think it's respectfully just ill-informed.

7 We brought this stipulation and order to the  
8 Court's attention, and I direct Your Honor to the  
9 very --

10 THE COURT: I remember it.

11 MR. STRACHMAN: Okay. There are -- the issue  
12 with respect to proving the ownership of these funds  
13 has been litigated on numerous occasions by the  
14 New York Courts, and in fact, there's a District Court  
15 ruling by Judge Konreich, which we attached to our  
16 brief, which said very clearly, if I could just read a  
17 sentence or two, Your Honor, it's Exhibit A to our  
18 brief, Page 8, which is her ruling denying them summary  
19 judgment because they could not prove the ownership of  
20 these funds.

21 And she said, The Insurance and Pension Fund,  
22 quote -- excuse me. Insurance and Pension Fund  
23 couldn't explain, quote, The use of different names for  
24 what they now say is the same pension fund, close  
25 quote.

1 Further down the page, she said, Even if the  
2 Court were to find that the Gaza Fund is a d/b/a name  
3 for the Insurance and Pension Fund and that the latter  
4 is an entity separate from the PA, the evidence does  
5 not clarify to what extent the PA or the Insurance and  
6 Pension Fund control the Gaza Fund, the sources of  
7 funds, all of which are material issues, close quote.

8 She denied summary judgment because they  
9 can't --

10 THE COURT: Issues of fact.

11 MR. STRACHMAN: That's right. And she scheduled  
12 a trial. The trial and the proceedings were stayed in  
13 2008 at their request. There were subsequent appeals.  
14 The case has been back and forth to the Appellate Court  
15 I think three or four times. They have now asked the  
16 highest Court of New York to revisit the jury issue  
17 decision.

18 It's my understanding that virtually nothing has  
19 happened in the case over the course of the better part  
20 of 2010 because, when the First Circuit ruled, it's my  
21 understanding that the restraining -- excuse me -- the  
22 stay remained in full force and effect.

23 And the Court of Appeals ruled in March of this  
24 year very clearly that the same -- they have the exact  
25 same kinds of problems, and if I could quote, The

1 Plaintiffs are right, we are right, that the  
2 Defendants' attempts to prejudge the very issue at the  
3 heart of this issue -- excuse me -- at the heart of  
4 this action; that is, whether the IPF and the Gaza  
5 Funds are legitimately interchangeable names.

6 That's all teed up, that's locked and loaded,  
7 years of discovery, years of pretrial supervision by  
8 one Judge, Judge Konreich, appellate decisions, and now  
9 what they're attempting to do, impermissibly and in  
10 violation of the scope of intervention, is exactly what  
11 Your Honor suggested, which is have another trial over  
12 here and have another parallel proceeding multiplying  
13 the litigation.

14 It would be offensive in the first instance.  
15 It's doubly offensive to ask this Court to rewrite or  
16 redo five years of litigation. It's already before the  
17 New York Court, and several -- and ready for  
18 determination according to its rules and regulations.

19 The determination of the Court in New York will  
20 determine very clearly in a declaratory judgment action  
21 whether the Insurance and Pension Fund actually owns  
22 these funds, despite the fact of course, Judge, that in  
23 Exhibit A to our brief, it says very clearly, The  
24 account that this -- this account as titled says, The  
25 Pension -- the Palestinian Pension Fund for the State

1 Administrative Employees of Gaza, represented by P for  
2 Palestinian and National and A, Authority.

3 So they can't prove they own this money. It is  
4 ready to be determined there, and to come to Court  
5 without a separate pleading when the -- there have been  
6 numerous rulings of the First Circuit indicating that,  
7 as an Intervenor, you must comply with the rules, you  
8 must file an appropriate separate pleading. That's the  
9 public citizen decision, Your Honor, that we quote on  
10 our -- in our brief on Page 9.

11 The Court said the language there is mandatory,  
12 it's not permissive, and warned, specifically warned  
13 the parties and future litigants, at Page 784, not to  
14 use this decision and the specific facts of the public  
15 citizen decision to come in and to do exactly what the  
16 Insurance and Pension Fund has done here.

17 They also cutely tried to suggest that they want  
18 assistance from this Court, they want affirmative  
19 relief against the Ungar orphans and their family, but  
20 they say very clearly, both in their original pleading  
21 and in the pleading number 535 that they filed  
22 yesterday, on Page 6, that they are not consenting to  
23 the jurisdiction of this Court.

24 They don't want this Court to have jurisdiction  
25 over them, but they want to use this Court as a sword

1 against the Ungars to effectively attempt to undo and  
2 to redo, rather, what they've been unable to to  
3 successfully convince a series of judges and courts in  
4 New York.

5 And lastly, Your Honor, if this Court were to  
6 grant this motion and instead of the next four months  
7 litigating and doing discovery on the motion to vacate,  
8 we would be here on this parallel proceeding because  
9 all of the issues that were represented to this Court  
10 as facts were represented not by employees of the  
11 Insurance and Pension Fund, not by an affidavit of a  
12 staffer of the Insurance and Pension Fund, but, rather,  
13 by counsel, and the discovery would be required here to  
14 ferret out those issues.

15 We already started some of that discovery in the  
16 Eastern District of New York to try to ferret out some  
17 of those issues.

18 I believe that's all, Your Honor. Thank you.

19 THE COURT: The injunction I issued is perfectly  
20 clear. It was to prevent the PA and the PL0 from  
21 alienating funds. And it only applies to the PA and  
22 the PL0, despite the fact that the Movant here  
23 attempting to intervene hasn't filed a complaint and is  
24 setting forth the issues that they're trying to raise.

25 It's clear what the issue is. The issue is

1 whether the Pension Fund is under the aegis of the PA  
2 and subject to the injunction. That's an issue that  
3 should be decided in the Courts in New York, and  
4 attempts have been made to move forward in the Courts  
5 of New York.

6 If I take the case, if I allow the intervention,  
7 there could be inconsistent results, and it's not my  
8 place to make that determination. And, obviously, the  
9 Supreme Court Judge in New York who heard this matter  
10 didn't grant summary judgment because there were  
11 factual issues to decide, and that's what should happen  
12 now is any discovery that's necessary be taken in  
13 New York and the matter tried to make a determination  
14 of this issue.

15 It's a key issue, and it's not one that I'm  
16 going to interject in this case. I have enough to  
17 decide in this case right now, which is whether or not  
18 the motion to vacate the previously entered judgment  
19 should be granted or denied.

20 I've already denied it once, and the Court of  
21 Appeals have reversed me and asked me to consider other  
22 factors other than the obvious action of Arafat not to  
23 recognize the jurisdiction of this Court.

24 So, if I grant the motion to intervene, I will  
25 have to have a factual hearing to determine the facts,



1 which is whether or not the Pension Fund is a separate  
2 entity and unconnected with the PA, and there will have  
3 to be a lot of discovery. I'll be duplicating things  
4 that have already happened in New York, and that's a  
5 waste of time, a waste of judicial time. I have enough  
6 to deal with in this case right now.

7 So, for all those reasons, the motion of the  
8 Pension Fund to intervene in this case is denied. I  
9 will enter a written order to that effect.

10 We'll take a recess.

11 (Court was concluded at 2:36 p.m.)

12  
13 C E R T I F I C A T I O N

14  
15  
16 I, Debra D. Lajoie, RPR-FCRR-CRI-RMR, do  
17 hereby certify that the foregoing pages are a true and  
18 accurate transcription of my stenographic notes in the  
19 above-entitled case.

20  
21  
22  
23 /s/ Debra D. Lajoie

24  
25 9/28/10